REMARKS

Amendments

Reconsideration of this application is respectfully requested in the light of the amendments and remarks.

Claim 2 has been canceled. No additional claims have been added. Claims 1, 3-6, 8, 16, 21 and 31 have been amended. It is respectfully submitted that no new matter has been added and entry into the record and examination on the merits is respectfully requested.

Claim 1 has been amended to incorporate the limitations of claim 2 as originally filed and a further limitation as to TDM has been added. Claim 3 has been rewritten in independent form and a further limitation as to TDM has been added. TDM is well-known in the art to refer to the technique of Time Division Multiplex (and related technicalities) and the term is supported at least by paragraphs [0003] and [0004] of the specification as originally filed.

Claim 5 has been amended to remedy an informality as to antecedent basis.

Claims 6, 16, 21 and 31 have similar limitations to TDM added.

Claim 8 has been amended to remedy an informality as to antecedent basis introduced by the amendment to claim 6.

A general comment can usefully be made that the claimed invention relates to unscheduled flow control. The use of unscheduled flow control in conjunction with high-speed packet-oriented TDM data flow is extensively described in the specification. It is respectfully submitted that, due to the use of the **combination** *"unscheduled flow"* with *"network packet"*, the limitation to TDM systems was already inherent in most of the

claims as originally filed. But since the Office Action shows no evidence of awareness

of that inherency, the limitation as to TDM has been made explicit in many of the claims

to avoid possible further misunderstanding. Thus, it is respectfully submitted that the

amendments to include TDM limitations are not *per se* narrowing but merely make

explicit certain change erstwhile implicit limitations. The terms *"unscheduled flow"* and

"network packet" are also well-known to have particular defined meanings in the

relevant communications arts.

Claim Rejections of Independent Claims–35 USC §102(e)

Disclosures of Cam. The Office Action has rejected claims 1-5, 11-16, and 27-

35 rejected under 35 U.S.C. §102(e) as being anticipated by US Patent application

number 20020126704 issued to Cam et al. (hereinafter Cam). The right to swear

behind the reference to Cam at a later time is reserved.

Claim 1 Claim 1 has been amended to incorporate the limitations of claim 2 as

originally filed and the inherent limitation as to TDM (time division multiplex) has been

made explicit. It is respectfully submitted that the cited art does not disclose or teach

unscheduled flow control in combination with TDM data flow, still less in further

combination with network packets.

The cited art of Cam (US Patent application number 2002/0126704) has

substantial overlap with the SPI-4 Phase 2 Implementation Agreement (also authored,

at least in part, by the same Cam) and submitted by IDS on February 8, 2002 in the

present application. This latter writing of Cam (possibly et al.) is described in the

Background of the Invention section of the specification of the present application as a

means to understand the problem that the claimed invention solves. Cam discloses in his background section methods for in-band (necessarily **scheduled**) flow control. Cam further discloses in his detailed description out-of-band, but still scheduled, flow control. However, there is no suggestion of unscheduled flow control in Cam. The examiner has written *"Cam discloses ... an unscheduled flow control packet (e.g. control word can be inserted at any point during the data transfer) including information about the status of the buffer (para 0007-0008)..."*. It is respectfully submitted that this is an unintentional mischaracterization of Cam, that inserting data at any point during a data transfer is not equivalent to an unscheduled flow control; and, more specifically, that *"at any point"* is not equivalent to *"at an unscheduled time"*. In Cam, data may be inserted at any point (or binary offset) in the data stream, but always still at a scheduled time. This distinction is substantial.

Thus, it is respectfully submitted that Cam does not disclose or teach all the limitations of amended claim 1 and it is respectfully requested that the rejection of claim 2 under 35 USC §102(e) as being anticipated by Cam should be withdrawn.

Claim 2. Claim 2 has been canceled.

Claim 3. Claim 3 has been rewritten in independent form and the inherent limitation as to TDM has been made explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Cam does not disclose or teach all the limitations of amended claim 3. Therefore, it is respectfully requested that the rejection of claim 3 under 35 USC §102(e) as being anticipated by Cam should also be withdrawn.

Claim 11. In regards to claim 11, it is respectfully submitted that the Office Action does not show where all the limitations of claim 11 are taught or disclosed by Cam. For example, claim 11 recites, in part, *"wherein each of said periodic transmissions of flow control data is faster than transmission of one of said network packets"*. The Examiner has written *"...Cam discloses a method comprising: ... Cam also discloses each of periodic transmission of flow control data is faster than transmission of one of the network packets (para 0053-0056, 700 MHz nominal data rate nominal clock rate vs. 87.5 MHz clock rate). ..."*. It is respectfully submitted that 87.5Mhz is, in general, slower than 700MHz and not faster as the Office Action suggests.

Thus, it is respectfully submitted that Cam does not disclose or teach all the limitations of claim 11 and it is respectfully requested that the rejection of claim 11 under 35 USC §102(e) as being anticipated by Cam should be withdrawn.

Claim 16. Claim 16 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Cam does not disclose or teach all the limitations of amended claim 16. Therefore, it is respectfully requested that the rejection of claim 16 under 35 USC §102(e) as being anticipated by Cam should also be withdrawn.

Claim 21. Claim 21 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Cam does not disclose or teach all the limitations of amended claim 21. Therefore, it is respectfully requested that the rejection of claim 21 under 35 USC §102(e) as being anticipated by Cam should also be withdrawn.

Claim 27. In regards to claim 27, it is respectfully submitted that the Office Action does not show where all the limitations of claim 27 are taught or disclosed by Cam. For example, claim 27 recites, in part, *"coupled with an unscheduled flow control packet bus to generate..."*. The Office Action contains nothing to suggest that Cam discloses or teaches *"unscheduled flow control packet bus"* as recited in claim 27. It is respectfully submitted that Cam does not in fact disclose or teach all the limitations of claim 27 and it is respectfully requested that the rejection of claim 27 under 35 USC §102(e) as being anticipated by Cam should be withdrawn.

Claim 31. Claim 31 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Cam does not disclose or teach all the limitations of amended claim 31. Therefore, it is respectfully requested that the rejection of claim 31 under 35 USC §102(e) as being anticipated by Cam should also be withdrawn.

Printed Patent of Ramakrishnan. The Office Action has further rejected claims 1, 11, 16, 27-28 and 31 under 35 U.S.C. §102(e) as being anticipated by US Patent number 6,167,029 issued to Ramakrishnan (hereinafter Ramakrishnan). The right to swear behind the reference to Ramakrishnan at a later time is reserved.

Claim 1. Claim 1 has been amended to incorporate the limitations of claim 2 as originally filed and the inherent limitation as to TDM (time division multiplex) has been made explicit. It is respectfully submitted that the cited art does not disclose or teach

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"*unscheduled flow control*" in combination with "*TDM data flow*", still less in further combination with "*network packets*". The examiner has written "*... Ramakrishnan discloses a method comprising:)... transmitting ... an unscheduled flow control packet ... (pause frames are automatically generated based on buffer capacity) including information about the status of the buffer (col.7: line 41 - col. 8: line 20)...*". It is respectfully submitted that this is a mischaracterization of Ramakrishnan, that pause frames may perhaps, arguably, be comparable to flow control in some circumstances, but they are not equivalent to, or anticipatory of, an **unscheduled** flow control, (and certainly not explicitly in combination with TDM data transmission). Indeed, it is hard to see how **unscheduled** can be meaningfully attributed to network packet flow control outside of a TDM or similar context (such as in the context of Ramakrishnan) at all. In any case, Ramakrishnan does not disclose or teach "*unscheduled flow control packet*" in combination with *TDM*.

Thus, it is respectfully submitted that Ramakrishnan does not disclose or teach all the limitations of amended claim 1 and it is respectfully requested that the rejection of claim 1 under 35 USC §102(e) as being anticipated by Ramakrishnan should be withdrawn.

Claim 2 has been canceled.

Claim 3. Claim 3 has been rewritten in independent form and the inherent limitation as to TDM has been made explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Ramakrishnan does not disclose or teach all the limitations of amended claim 3. Therefore, it is respectfully requested that the

rejection of claim 3 under 35 USC §102(e) as being anticipated by Ramakrishnan should also be withdrawn.

Claim 11.

In regards to claim 11, it is respectfully submitted that the Office Action does not show where all the limitations of claim 11 are taught or disclosed by Ramakrishnan. For example, claim 11 recites, in part, *"wherein each of said periodic transmissions of flow control data is faster than transmission of one of said network packets"*. The Office Action contains nothing to suggest that Ramakrishnan discloses or teaches that particular limitation of claim 11. It is respectfully submitted that Ramakrishnan does not in fact disclose or teach all the limitations of claim 11 and it is respectfully requested that the rejection of claim 11 under 35 USC §102(e) as being anticipated by Ramakrishnan should be withdrawn.

Claim 16.
Claim 16 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Ramakrishnan does not disclose or teach all the limitations of amended claim 16. Therefore, it is respectfully requested that the rejection of claim 16 under 35 USC §102(e) as being anticipated by Ramakrishnan should also be withdrawn.

Claim 27.
In regards to claim 27, it is respectfully submitted that the Office Action does not show where all the limitations of claim 27 are taught or disclosed by Ramakrishnan. For example, claim 27 recites, in part, *"coupled with an unscheduled*

flow control packet bus to generate...". The Office Action contains nothing to suggest that Ramakrishnan discloses or teaches any *"flow control packet bus",* still less *"an unscheduled flow control packet bus"* as recited in claim 27. It is respectfully submitted that Ramakrishnan does not in fact disclose or teach all the limitations of claim 27 and it is respectfully requested that the rejection of claim 27 under 35 USC §102(e) as being anticipated by Ramakrishnan should be withdrawn.

Claim 31. Claim 31 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that for essentially the same reasons as for claim 1, Ramakrishnan does not disclose or teach all the limitations of amended claim 31. Therefore, it is respectfully requested that the rejection of claim 31 under 35 USC §102(e) as being anticipated by Ramakrishnan should also be withdrawn.

Claim Rejections of Independent Claims under 35 USC §103(a)

The Office Action has rejected *(inter alia)* independent claims 6 and 21 under 35 USC §103(a) as being unpatentable over Ramakrishnan.

Claim 6. Claim 6 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that Ramakrishnan does not disclose or teach all the limitations of amended claim 6. For example, amended claim 6 recites, in part *"...transmitted during a first period within an assigned time slot in a TDM data stream... generating an unscheduled flow control packet...".* But Ramakrishnan does not disclose or teach or render obvious TDM, indeed the invention of Ramakrishnan

does not even contemplate TDM. And if TDM could be applied to the invention of Ramakrishnan it would certainly not constitute an *unscheduled flow control packet* in combination with *TDM*. Therefore, it is respectfully requested that the rejection of claim 6 under 35 USC §103(a) as being rendered obvious by Ramakrishnan should be withdrawn.

Claim 21. Claim 21 has been amended to make the inherent limitation as to TDM become explicit. It is respectfully submitted that Ramakrishnan does not disclose or teach all the limitations of amended claim 21. For example, amended claim 21 recites, in part "...*an unscheduled flow control packet ... wherein the network packet is transmitted according to an assigned time slot in a TDM (time division multiplex) data stream. ...*". But Ramakrishnan does not disclose or teach or render obvious TDM, indeed the invention of Ramakrishnan does not even contemplate TDM. And if TDM could be applied to the invention of Ramakrishnan it would certainly not constitute an *unscheduled flow control packet* in combination with *TDM*. Therefore, it is respectfully requested that the rejection of claim 21 under 35 USC §103(a) as being rendered obvious by Ramakrishnan should be withdrawn.

Claim Rejections of Dependent Claims 4-5, 7-10, 12-15, 17-20, 22-26, 28-30 and 32-35.

Claims 4-5 are dependent upon claim 1.

Claims 7-10 are dependent, directly or indirectly upon claim 6.

Claims 12-15 are dependent upon claim 11.

Claims 17-20 are dependent, directly or indirectly upon claim 16.

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Claims 22-26 are dependent, directly or indirectly upon claim 21.

Claims 28-30 are dependent, directly or indirectly upon claim 27.

Claims 32-35 are dependent, directly or indirectly upon claim 31.

Thus, it is respectfully submitted that claims 4-5, 7-10, 12-15, 17-20, 22-26, 28-30 and 32-35 are allowable for at least the same reasons as claims 1, 6, 11, 16, 21, 27 and/or 31 respectively and It is respectfully requested that the rejections of 4-5, 7-10, 12-15, 17-20, 22-26, 28-30 and 32-35 be withdrawn.

SUMMARY

Reconsideration of this application is respectfully requested. Claims 1, 3-35 remain in the application. Claims 1, 3-6, 8, 16, 21 and 31 have been amended.. No Claims have been added.

It is respectfully submitted that all rejections have been overcome and that all pending claims are in condition for allowance. Reconsideration of the application and allowance of pending claims 1, 3-35 is respectfully requested.

Invitation for a telephone interview

The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.
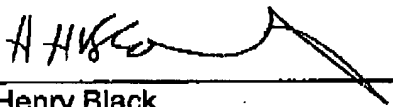
Charge our Deposit Account

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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